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09/896,733	06/29/2001	J. Rob Bowers	14531.110	9135

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EXAMINER
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LAYE, JADE O

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/896,733

**Applicant(s)**

BOWERS, J. ROB

**Examiner**

Jade O. Laye

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☒ Claim(s) 9 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/11/01</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

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### *Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on 10/11/01 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### *Claim Objections*

2. Claims 9 and 24 are objected to because of the following informalities:
  - a. Claim 9 appears to contain a typo in the phrase "...when to *delivery* the single copy...". It phrase should recite "...when to deliver...".
  - b. Claim 24 contains the phrase "...wherein comparing occurs...". The claims should recite "...wherein *the* comparing occurs..."

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7, 10, 11, 15-17, 20, 21, 25, 27, 29, 30, 38, 39, and 43-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Bommaiah et al. (US Pat. No. 6,708,213).

As to claim 1, Bommaiah et al disclose a system and method for streaming multimedia information over public networks. Specifically, Bommaiah's system comprises a helper server ("HS") and proxy module having a single connection to a wide area network (i.e., Internet). The HS is comprised of an aggregation module, buffer, and said proxy module, which can deliver content in a unicast or multicast format. (Abstract; Col. 1, Ln. 48-55; Col. 2, Ln. 57-Col. 3, Ln. 5; Col. 4, Ln. 31-62; Col. 5, Ln. 43-65; Col. 6, Ln. 36-Col. 7, Ln. 27; Col. 10, Ln. 23-49). Moreover, it is inherent Bommaiah's system contains client identifiers because the system is capable of unicasting multimedia. In order to locate the intended user in a unicast transmission, the system must have some way of identifying said user. Thus, some form of identifier is inherently disclosed. Accordingly, Bommaiah et al anticipate each and every element of claim 1.

Claims 10, 11, 25, and 27 either correspond to or are encompassed within the limitations of claim 1. Thus, each is analyzed and rejected as previously discussed.

As to claim 2, Bommaiah further discloses the proxy module is remotely located from said client devices. (Fig. 1; Col. 2, Ln. 57-Col. 3, Ln. 5). Accordingly, Bommaiah et al anticipate each and every element of claim 2.

As to claim 3, Bommaiah further teaches the content server transmits the streaming media to the HS (i.e., aggregation module). (Col. 6, Ln. 36-58). Accordingly, Bommaiah et al anticipate each and every element of claim 3.

As to claim 4, Bommaiah further teaches the system is capable of transmitting separate copies (i.e., instances) of the streaming media. (Col. 6, Ln. 59-Col. 7, Ln. 27). Accordingly, Bommaiah et al anticipate each and every element of claim 4.

As to claim 5, Bommaiah further teaches the system is capable of selecting various “formats” for delivering the streaming media. Giving “format” the broadest reasonable interpretation, the Examiner interprets the term to denote any number of things. For example, Bommaiah’s system can transmit streaming media in a unicast or multicast “format.” (citations in previous claim rejections). In the alternative and only to show the broadness of Applicant’s claim, Bommaiah’s system is capable of varying the data rate via the use of an algorithm. (Col. 8, Ln. 1-56). This too could read upon Applicant’s “format” language because it is well-known in the art to apply various MPEG compression techniques (i.e., formats) in order to vary data transfer rates. Accordingly, Bommaiah et al anticipate each and every element of claim 5.

As to claim 6, Bommaiah further discloses the use of multicasting. (same rejection as claim 4 and Col. 10, Ln. 6-15). Accordingly, Bommaiah et al anticipate each and every element of claim 6.

As to claim 7, Bommaiah further discloses converting the single copy of the streaming media into a “standardized format.” Again, the Examiner gives this term its broadest and most reasonable reading. Therefore, the Examiner interprets Bommaiah’s unicasting method to read upon Applicant’s “standardized format.” At Col. 1, Ln. 48-55, Bommaiah teaches that streaming media is generally transmitted using a unicast method. In other words, unicasting is a standard format in which streaming media is transmitted. Accordingly, Bommaiah et al anticipate each and every element of claim 7.

Claim 15 mirrors the language of claim 5. Thus, it is analyzed and rejected as discussed therein.

Claim 16 mirrors the language of claim 4. Thus, it is analyzed and rejected as discussed therein.

Claim 17 is encompassed within the language of claim 1. Thus, it is analyzed and rejected as discussed therein.

Claim 20 mirrors the language of claim 7. Thus, it is analyzed and rejected as discussed therein.

Claim 21 is encompassed within the language of claim 1. Thus, it is analyzed and rejected as discussed therein.

Claim 29 mirrors the language of claim 5. Thus, it is analyzed and rejected as discussed therein.

Claim 30 mirrors the language of claim 7. Thus, it is analyzed and rejected as discussed therein.

Claim 38 is encompassed within the limitations of claims 1 and 5. For clarification, the Examiner rejects sub-element (c) of claim 38 because Bommaiah delivers streaming media at various transfer rates (i.e., formats), which can be chosen based upon available bandwidth. Please refer to the rejections of claims 1 and 5 for further discussion.

Claim 39 is encompassed within the language of claim 1. Thus, it is analyzed and rejected as discussed therein.

Claim 43 is encompassed within the language of claim 38. Thus, it is analyzed and rejected as discussed therein.

Claim 44 is encompassed within the language of claim 16. Thus, it is analyzed and rejected as discussed therein.

Claim 45 is encompassed within the language of claim 17. Thus, it is analyzed and rejected as discussed therein.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 8, 9, 18, 19, 26, 31-33, 46, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah et al in view of Durana et al. (US Pat. No. 6,018,765).

Claim 8 recites the system of claim 1, wherein the system comprises a cable system having a plurality of used and unused channels. As discussed above, Bommaiah et al anticipate each and every limitation of claim 1, but fail to specifically disclose the use of used and unused

channels. However, within the same field of endeavor, Durana et al disclose a similar system which utilizes multiple used and unused channels. (Abstract; Col. 2, Ln. 5-13; Col. 7, Ln. 19-37). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of Bommaiah and Durana in order to provide a system which greater transmission flexibility.

Claim 9 recites the method of claim 8, further comprising identifying when to deliver the streaming media on at least one of the unused channels. As discussed above, the combined system of Bommaiah and Durana disclose all limitations of claim 8, and Bommaiah further discloses the system can process multiple requests at multiple time periods. (Col. 5, Ln. 41-Col. 7, Ln. 45). Therefore, the system must determine "when" to deliver the requested streams. Accordingly, the combined systems of Bommaiah and Durana disclose all limitations of claim 9.

Claim 18 mirrors the language of claim 8. Thus, it is analyzed and rejected as discussed therein.

Claim 19 recite the method of claim 18, wherein the system is a cable, television, or satellite system. As discussed above, the combined system of Bommaiah and Durana disclose all limitations of claim 18, and Durana further discloses a cable system (Durana is a cable system). Accordingly, the combined systems of Bommaiah and Durana disclose all limitations of claim 19.

Claim 26 recites the computer program product of claim 25, wherein the computer instructions further comprise program code means for generating each request form each of the plurality of receivers using an input device. As discussed above, Bommaiah anticipates each and every limitation of claim 25, but fails to specifically discuss the use of a remote control.



However, Durana discloses the use of such a device. (Col. 4, Ln. 4-11). Accordingly, the combined systems of Bommaiah and Durana disclose all limitations of claim 26.

Claim 31 comprises limitations combined from claims 1, 8, and 12. Thus, it is analyzed and rejected as discussed therein.

Claim 32 mirrors the language of claim 1. Thus, it is analyzed and rejected as discussed therein.

Claim 33 mirrors the language of claim 1. Thus, it is analyzed and rejected as discussed therein. (*Note: the Examiner interprets the HS to be an "access system."*).

Claim 46 is encompassed within the language of claim 8. Thus, it is analyzed and rejected as discussed therein.

Claim 47 is encompassed within the language of claim 9. Thus, it is analyzed and rejected as discussed therein.

5. Claims 12-14 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah et al.

Claim 12 recites the method of claim 11, wherein the network is selected from the group consisting of a wide area network and a local area network. As discussed above, Bommaiah et al anticipate each and every limitation of claim 11, and further teaches the use of the Internet (i.e., wide area network). But, Bommaiah fails to specifically discuss local area networks. However, the Examiner takes Official Notice that, at the time of Applicant's invention, the use of local area networks was notoriously well known in this art. (as evidenced by *Belknap et al US Pat. No. 5,586,264* at Col. 5, Ln. 40-44). Accordingly, it would have been obvious to one having

ordinary skill in this art at the time of Applicant's invention to modify the system of Bommaiah to also include a local area network, thereby providing a more efficient distribution network.

Claim 13 recites the method of claim 12, wherein the network is the Internet. This limitation is disclosed within the rejection of claim 12. Thus, claim 13 is analyzed and rejected as previously discussed.

Claim 14 recites the method of claim 13, further comprising delivering the buffered single copy of the streaming media from the aggregation module to the termination system. As discussed above, the modified system of Bommaiah discloses all limitations of claim 13, and further discloses the HS serves as both a proxy module and termination (i.e., transmission/reception) system. (discussed in previous rejections). Although Bommaiah's system may not specifically disclose transmitting the streaming media from the proxy to the termination module, this would be an obvious variation and a matter of design choice. Bommaiah's system simply includes each within the HS. Accordingly, the modified system of Bommaiah discloses all limitations of claim 14.

Claim 28 mirrors the language of claim 14. Thus, it is analyzed and rejected as discussed therein.

6. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah et al in view of McClain et al. (US Pat No. 6,722,214).

Claim 22 recites the method of claim 21, further comprising limitations too numerous to recite herein. (please refer to claim sheet). As discussed above, Bommaiah et al anticipate each and every limitation of claim 21, but fail to specifically disclose the limitations of claim 22.

Art Unit: 2617

However, within the same field of endeavor, McClain et al disclose a similar system which compares a rating code associated with a web page (i.e., URL) against a stored policy list (i.e., rating list), in order to determine if the requesting receiver is authorized to receive said requested content. (Abstract; Col. 2, Ln. 55-65). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of Bommaiah and McClain in order to provide a system with advanced filtering techniques.

Claim 23 is encompassed within the language of claim 22. Thus, it is analyzed and rejected as previously discussed.

Claim 24 recites the method of claim 22, wherein the comparing occurs upon the proxy module. As discussed above, the combined systems of Bommaiah and McClain disclose all limitations of claim 22, and McClain further discloses the proxy module performs said comparison. (Col. 2, Ln. 17-35). Accordingly, the combined systems of Bommaiah and McClain disclose all limitations of claim 24.

7. Claims 34, 35, 37, and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah in view of Durana as applied to claim 33 above, and further in view of McClain.

Claim 34 recites the method of claim 33, wherein the access system comprises a proxy module, a parental control module, and an aggregation module. As discussed above, the combined system of Bommaiah and Durana disclose all limitations of claim 33, and further teach the use of a proxy and aggregation module. (discussed previously under rejection of claim 1). But, each fails to specifically disclose the use of a parental control system. However, as discussed under claim 22, McClain does disclose such a system which can be used as a parental

control system. (Col. 1, Ln. 17-22). For the sake of brevity, a motivation statement will not be supplied. (please refer to previous motivation statements). Accordingly the combined systems of Bommaiah, Durana, and McClain disclose all limitations of claim 34.

Claim 35 is encompassed within the language of claims 1 and 5. Thus, it is analyzed and rejected as discussed therein.

Claim 37 is encompassed within the limitations of claim 1. Thus, it is analyzed and rejected as discussed therein. *(Note: the "at least on of" language of claim 37 is rejected if "at least on of" the subsequently listed limitations are found in the prior art.)*

Claim 40 mirrors the language of claim 34. Thus, it is analyzed and rejected as discussed therein.

Claim 41 is encompassed within the language of claim 1. Thus, it is analyzed and rejected as discussed therein.

Claim 42 is encompassed within the language of claim 7. Thus, it is analyzed and rejected as discussed therein.

8. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah in view of Durana in further view of McClain as applied to claim 35 above, and further in view of Ullman et al. (US Pat. Pub. No. 2002/0038383).

Claim 36 recites the method of claim 35, further comprising limitations too numerous to recite herein. (refer to claim sheet). As discussed above the combined systems of Bommaiah, Durana, and McClain disclose all limitations of claim 35, but fail to specifically disclose the use of a digital, analog, or textual format. However, within the same field of endeavor, Ullman et al

disclose a similar system which is capable of transmitting streaming media in digital, analog, or textual format. (Par. [0002, 0010, 0014, & 0027]). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of Bommaiah, Durana, McClain, and Ullman to provide a system which is capable of reaching a wider range of audiences.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Kermode et al (US Pat. No. 6,018,359) disclose a multicast system for VOD.
- b. Marks et al (US Pat. Pub. No. 2002/0007374) disclose a system for supporting a multicast response to a unicast request.
- c. Guo et al (US Pat. No. 6,377,972) disclose a system for streaming high quality media.
- d. Lin et al (US Pat. No. 6,405,256) disclose a system for streaming media having adjustable buffers and data transmission.
- e. Demoney (US Pat. No. 6,438,630) discloses a system for scheduling storage access in a streaming media environment.
- f. Lawrence (US Pat. No. 6,721,957) discloses a system and method for maximizing bandwidth efficiency.
- g. Rodriguez et al (US Pat. Pub. No. 2004/0133907) disclose a system for adaptive scheduling of television services.

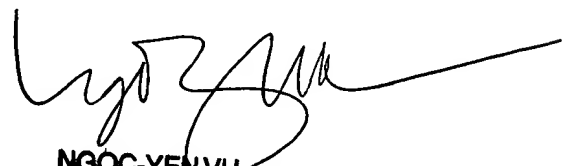
- h. Mahdavi (US Pat. No. 6,801,964) discloses a system to fast fill buffers.
- i. Zahorjan et al (US Pat. No. 6,859,839) disclose a system for efficient utilization of bandwidth.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye  
July 13, 2005.



NGOC-YEN VU  
PRIMARY EXAMINER